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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket No. (Optional)
TYHC:0103/FLE

In re Application of: Paul F. Stetson
Application No. 10/674,709
Filed: September 29, 2003
For: Blind Source Separation of Pulse Oximetry Signals

Petitioner, Nellcor Puritan Bennett Incorporated, is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,701,170. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Pursuant to 37 C.F.R. § 3.73, the undersigned has reviewed the evidentiary documents, specifically, the Assignment of the instant application to Nellcor Puritan Bennett Incorporated, which was executed on April 23, 2002, and certifies that, to the best of his or her knowledge and belief, title of the instant application is in the name of Assignee, Nellcor Puritan Bennett Incorporated.

For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization in making this terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

September 6, 2005
Date

Michael G. Fletcher
Signature

09/12/2005 SDENBOB1 00000007 061315 10674709
02 FC:1814 130.00 DA

Michael G. Fletcher, Attorney for Assignee
Typed or printed name and title if applicable

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included. **Authorized charge to deposit account.**
- ☒ PTO suggested wording for terminal disclaimer was
 - ☐ unchanged
 - ☒ changed (if changed, an explanation should be supplied).

Paragraph in bold added for compliance with 37 C.F.R. § 3.73